



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-25290]

Commercial Driver's License Standards: Application for Exemption; Isuzu North America Corporation (Isuzu)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to approve Isuzu North America Corporation's (Isuzu) application for an exemption from the Federal requirement to hold a U.S. commercial driver's license (CDL) issued by one of the States. The exemption allows 12 Isuzu commercial motor vehicle (CMV) drivers, who are citizens and residents of Japan and hold a Japanese commercial license, to test-drive Isuzu CMVs in the United States without a CDL issued by one of the States. Isuzu requested the exemption so that these driver-employees, as a team, can help to evaluate and test production and prototype Isuzu CMVs for sale in this country. FMCSA believes the knowledge and skills training and testing that drivers must undergo to obtain a Japanese commercial license ensures a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This exemption is effective **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** and expires February 21, 2024.

ADDRESSES: Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2006-25290” in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility

in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

Isuzu applied for an exemption from the CDL rules, specifically the licensing requirements for drivers operating CMVs in interstate or intrastate commerce (49 CFR 383.23). Isuzu requested the exemption for 12 driver-employees who are citizens and

residents of Japan, and cannot apply for a CDL due to lack of residency in the United States. Isuzu explained that the exemption would allow a team of 12 employees (vehicle test engineers, technicians, mechanics and other employees) to test drive and evaluate production and prototype CMVs on U.S. highways under various environmental and climatic conditions. According to Isuzu, these drivers will not transport merchandise. Each driver holds a valid Japanese commercial license, and as explained by Isuzu in previous exemption requests, applicants for a Japanese commercial license must undergo a training program and pass knowledge and skills tests. A copy of Isuzu's application for exemption is available for review in the docket for this notice.

IV. Method to Ensure an Equivalent or Greater Level of Safety

These Isuzu drivers are experienced CMV operators. In Japan, drivers must hold a conventional driver's license for at least 3 years to be eligible for a commercial license. They must also pass both skills and knowledge tests. A driver granted a Japanese commercial license may legally operate any CMV allowed on the roads of Japan. Isuzu believes that these drivers will achieve a level of safety that equals or exceeds the level of safety that would be achieved without the exemption.

V. Public Comments

On October 19, 2018, FMCSA published notice of this application and requested public comments (83 FR 53151). Three individuals submitted comments, two opposing the exemption. Both said that Isuzu should hire U.S. drivers and voiced concerns over the effects of a perceived language barrier. The third comment was not relevant to the exemption.

VI. FMCSA Response and Decision

FMCSA has previously determined that the process for obtaining a Japanese commercial license is comparable to, or as effective as, the Federal CDL knowledge and skills requirements of 49 CFR part 383 as enforced by the States, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2003, FMCSA has granted Isuzu drivers similar exemptions [October 16, 2003 (68 FR 59677); April 3, 2007 (72 FR 15933); April 5, 2007 (72 FR 16870); September 5, 2008 (73 FR 51878); January 5, 2009 (74 FR 334); July 24, 2009 (74 FR 36809)].

FMCSA believes that the operations of the 12 Isuzu driver-employees will ensure a level of safety that is equivalent to, or greater than, the level of safety that would be achieved without the exemption. FMCSA's decision to grant this exemption is based on the merits of the application and the considerable CMV driving experience of these drivers. In addition, FMCSA considers the rigorous skills and knowledge testing that drivers undergo to obtain a Japanese commercial license to be comparable to, or as effective as, the requirements of a U.S. CDL (49 CFR part 383). Therefore, FMCSA grants exemption from the requirements of 49 CFR 383.23 to the following 12 individuals while employed by Isuzu, to enable them to operate CMVs in this country without a CDL for a period of 5 years: Naoto Morimoto, Kenji Sugawara, Ryota Hisamatsu, Takehiro Oshima, Yasuhiro Sakai, Hiroaki Takahashi, Kazunori Aizawa, Atsushi Fujiwara, Kazuya Takahashi, Koichi Ueno, Takahisa Chiba, and Takamasa Ono.

VII. Terms and Conditions of the Exemption

This exemption is subject to the following terms and conditions: (1) These drivers are subject to the drug and alcohol regulations, including testing, as provided in 49 CFR part 382, (2) these drivers are subject to the same driver disqualification rules

under 49 CFR parts 383 and 391 that apply to other CMV drivers in the United States, (3) Isuzu shall notify FMCSA in writing if an exempted driver is convicted of a disqualifying offense described in sections 383.51 or 391.15 of the Federal Motor Carrier Safety Regulations (49 CFR 350 et seq.), (4) these drivers must keep, at all times, a copy of the exemption with them in the CMV they are driving, and (5) Isuzu must notify FMCSA in writing of any accident, as defined in 49 CFR 390.5, that involves an exempted driver.

FMCSA will revoke this exemption if: (1) the Isuzu drivers fail to comply with the terms and conditions of the exemption, (2) the exemption results in a lower level of safety than was maintained before it was granted, or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: February 13, 2019.

Raymond P. Martinez,

Administrator.

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